

# In the United States Court of Federal Claims

## OFFICE OF SPECIAL MASTERS

No. 17-1028V

Filed: October 17, 2019

UNPUBLISHED

BARBARA SAKOVITS,

Petitioner,

v.

SECRETARY OF HEALTH AND  
HUMAN SERVICES,

Respondent.

Special Processing Unit (SPU);  
Ruling on Entitlement; Table Injury;  
Influenza (Flu) Vaccine; Shoulder  
Injury Related to Vaccine  
Administration (SIRVA)

*Shealene Priscilla Mancuso, Muller Brazil, LLP, Dresher, PA, for petitioner.  
Daniel Anthony Principato, U.S. Department of Justice, Washington, DC, for  
respondent.*

### **RULING ON ENTITLEMENT**<sup>1</sup>

**Corcoran**, Chief Special Master:

On July 31, 2017, petitioner filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> (the “Vaccine Act”). Petitioner alleges that she suffered left shoulder injuries caused by the influenza vaccination she received on October 24, 2014. Petition at ¶¶ 2, 13. The case was assigned to the Special Processing Unit (“SPU”).

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<sup>1</sup> I intend to post this decision on the United States Court of Federal Claims' website. **This means the decision will be available to anyone with access to the internet.** In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access. Because this unpublished decision contains a reasoned explanation for the action in this case, I am required to post it on the United States Court of Federal Claims' website in accordance with the E-Government Act of 2002. 44 U.S.C. § 3501 note (2012) (Federal Management and Promotion of Electronic Government Services).

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

On August 9, 2019, Special Master Dorsey (to whom this case was previously assigned)<sup>3</sup> issued a fact ruling, finding there is preponderant evidence to establish that petitioner's manifestation of onset after vaccine administration occurred within 48 hours. Fact Ruling at 5 ([ECF No. 38](#)).

Respondent has filed an amended Rule 4 report indicating that "while preserving his right to appeal the Chief Special Master's finding . . . [he] has concluded that petitioner suffered SIRVA related to her October 24, 2014 vaccination." Rule 4 Report, filed Oct. 9, 2019, at 3 ([ECF No. 43](#)). Respondent adds that "based on the record as it now stands and subject to his right to appeal the Findings of Fact, respondent does not dispute that petitioner has satisfied all legal prerequisites for compensation under the Act." *Id.* at 3-4.

**In view of respondent's position and the evidence of record, the undersigned finds that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Brian H. Corcoran**

Brian H. Corcoran  
Chief Special Master

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<sup>3</sup> On October 1, 2019, former Chief Special Master Dorsey stepped down as Chief Special Master but continues to adjudicate vaccine cases as Special Master Dorsey. The majority of SPU cases were reassigned to Chief Special Master Corcoran.